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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,184	09/04/2001	Tetsuo Ozawa	213370US0CONT	1199

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EXAMINER

TUCKER, PHILIP C

ART UNIT

PAPER NUMBER

1712

DATE MAILED: 04/28/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

944184

Applicant(s)

OZAWA

Examiner

P. TUCKER

Group Art Unit

1712

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 17-47 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 17-42, 47 is/are rejected.
- ☒ Claim(s) 43-46 is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 17, 18, 20, 22, 29 and 32 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Champ (3824099).

See compound 7 in column 3.

3. Claims 17, 18, 20, 22, 29 and 32 rejected under 35 U.S.C. 102(b) as being clearly anticipated by Baranyi et al (4524218).

See line 65 of column 3.

4. Claims 17, 20, 24, 27 and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Meier et al., Tetrahedron Letters, vol. 37, no. 8, pages 1191-1194, (1996).

See compounds 11a-f on page 1192.

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5. Claims 17, 19, 21 and 34 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ramaiah et al, Photochemistry and Photobiology, vol. 65, no. 5, pages 783-790, (1997).

See figure 3, and Results and Discussion section.

6. Claims 17, 20, 24, 27, 34 and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Meier et al., J. Org. Chem, vol. 62, pages 4821-4826, (1997).

Meier teaches squarylium compounds of the present invention, which comprise substituted alkenyl groups corresponding to R (see Scheme 2). Meier teaches the formation of a spin coat of the compound in a silane matrix (page 4822). Applicants intended use as a filter for a plasma display panel does not distinguish over the prior art (In re Pearson 181 USPQ 641).

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

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A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 17-42 and 47 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over the claim of copending Application No. 09/861714 (now allowed). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of 09/861714 differ in teaching an additional dipyrzolylsquarylium compound, the filter device comprises an compound of formula III, which is identical to that of the present invention, and would render the present filter and compounds obvious to one of ordinary skill in the art.


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

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9. Claims 43-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip Tucker whose telephone number is (703) 308-0529. The examiner's normal working hours are 7:30am-4:00pm, Monday-Friday. If necessary SPE Robert Dawson may be contacted at 703-308-2340. For inquiries of a general nature call the receptionist at 703-308-0651. The group FAX no. is 703-872-9310. The **after final** fax no. Is 703-872-9311.

PCT-2792
April 21, 2003



PHILIP C. TUCKER
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